



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 30 2017

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wesley D. Litsey, President
John Gault Trucking, LLC.
11424 U.S. Hwy 20
Garden Prairie, IL 61038

Re: Notice of Violation

Dear Mr. Litsey:

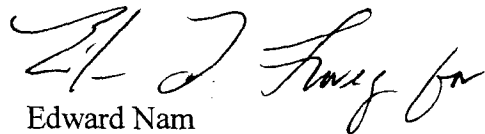
The United States Environmental Protection Agency (EPA) is issuing the attached Notice of Violation ("NOV") to John Gault Trucking, LLC ("John Gault Trucking" or "you") for violating the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401-7671q, and its implementing regulations. As summarized in the attached NOV, EPA has determined that John Gault Trucking removed and/or rendered inoperative devices or elements of design installed on or in motor vehicles or motor vehicle engines and has sold and/or installed parts or components for motor vehicle engines that bypass, defeat, or render inoperative elements of design of those engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards. EPA has also determined that John Gault Trucking knew or should have known that these parts or components were offered for sale or installed for such use or put to such use. Therefore, John Gault Trucking has violated Sections 203(a)(3)(A) and (a)(3)(B) of the CAA, 42 U.S.C. §§ 7522(a)(3)(A) and (a)(3)(B).

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information in response to the NOV prior to the conference date. We have also enclosed an information sheet titled: "*U.S. EPA Small Business Resources*" which may be helpful if you qualify as a small business.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures. You may have an attorney represent you at this conference.

Your EPA contact in this matter is Cody Yarbrough. You may contact him at (312) 886-9137, or yarbrough.cody@epa.gov, to request a conference. You should make the request within 10 calendar days following receipt of this letter. We will hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Nam", written in dark ink.

Edward Nam
Director
Air and Radiation Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**John Gault Trucking, LLC
Garden Prairie, Illinois**

Proceedings Pursuant to
the Clean Air Act
42 U.S.C. §§ 7521 – 7554

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NOTICE OF VIOLATION

EPA-5-17-IL-08

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation to John Gault Trucking, LLC (John Gault Trucking) for violating Sections 203(a)(3)(A) and (a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(3)(A) and (a)(3)(B).

Statutory and Regulatory Background

1. Title II of the CAA, 42 U.S.C. §§ 7521–7554, was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that “the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare.” CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2).
2. On October 21, 1997 (62 FR 54721), EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO_x), and other pollutants emitted by motor vehicles and motor vehicle engines, including Heavy Duty Diesel Engine (HDDE) trucks, under Section 202 of the CAA, 42 U.S.C. § 7521. *See generally* 40 C.F.R. Part 86. HDDE emission standards “reflect the greatest degree of emission reduction achievable through the application of [available] technology.” CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).
3. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity. EPA issues certificates of conformity to vehicle manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The certificate of conformity will include, among other things, a description of the HDDEs, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.
4. To meet the emission standards in 40 C.F.R. Part 86, HDDE manufacturers employ many devices and elements of design. “Element of design” means “any control system (i.e.,

computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.” 40 C.F.R. § 86.094-86.092.

5. One element of design that HDDE manufacturers employ is retarded fuel injection timing as a primary emission control device for emissions of NO_x. Common emission control devices used by HDDE manufacturers include diesel particulate filter (DPF), exhaust gas recirculation (EGR) systems, selective catalytic reduction (SCR) systems, and/or diesel oxidation catalysts (DOCs). Additionally, modern HDDEs are equipped with electronic control modules (ECMs), which continuously monitor engine and other operating parameters and control the emission control devices.
6. EPA promulgated regulations for motor vehicles manufactured after 2007 that require HDDE trucks to have onboard diagnostic systems to detect various emission control device parameters and vehicle operations. *See* Section 202(m) of the CAA, 42 U.S.C. § 7521(m) and 40 C.F.R. § 86.010-18.
7. Under 40 C.F.R. § 86.004-16(a), “No new heavy-duty vehicle or heavy-duty engine shall be equipped with a defeat device.” Under 40 C.F.R. § 86.094-2, a “defeat device” is an auxiliary emission control device (AECD) that “reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use, unless: (1) Such conditions are substantially included in the Federal emission test procedure; (2) The need for the AECD is justified in terms of protecting the vehicle against damage or accident; or (3) The AECD does not go beyond the requirements of engine starting.”
8. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), makes it a violation for “any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.”
9. Section 203(a)(3)(B), of the CAA, 42 U.S.C. § 7522(a)(3)(B), makes it a violation for “any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.”

Background

10. John Gault Trucking owns and operates a HDDE repair facility located in Garden Prairie, Illinois (the Facility) and performs, among other things, truck and trailer repairs and maintenance and service. John Gault Trucking is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
11. On January 27, 2016, EPA representatives attempted consensual entry to inspect the Facility. They were informed by a person who refused to give his name that they would not be permitted onsite without a warrant. At that time, the EPA representatives issued to John Gault Trucking a request for information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a), and Section 114(a) of the CAA, 42 U.S.C. § 7514(a). This document required John Gault Trucking to maintain and make available to EPA all information, records, parts, components, and devices in its possession related to its purchases, sales, and work that impacted emission control devices and elements of design on HDDEs used on public roads. The EPA representatives returned to their vehicle and exited the grounds.
12. On February 24, 2016, EPA representatives returned to the Facility with a warrant issued by the U.S. District Court for the Northern District of Illinois, Western Division, and conducted an inspection. During the inspection, EPA representatives asked for and obtained hard copies of 10 sets of documents related to John Gault Trucking's purchases, sales, and work that impacted emission control devices and elements of design on HDDEs used on public roads. Of these documents, eight sets include invoices from John Gault Trucking that describe work done on HDDEs. The work listed on these invoices includes "EGR Repair," "ECM EGR Repair," "Take Out EGR," "EGR Block Plate," "ECM Repair," "ECM Reprogram and Calibration," and "Rework Program for 12.7L Injectors." On two occasions, these documents show ECM tuning associated with increases in horsepower and torque. On one occasion, these documents show EGR removal and ECM tuning associated with the installation of a new turbo.
13. During the February 24, 2016 inspection, EPA representatives inspected or attempted to inspect six onsite HDDEs. For four of the six vehicles inspected, EPA representatives were unable to scan the ECM and onboard diagnostic system due to the unavailability of keys and/or refusal of John Gault Trucking to provide keys to enter the vehicles. For one of the two vehicles that were scanned, the onboard diagnostic system showed the EGR had been removed from the engine, and a non-OEM turbo had been installed. For the other, a computer was connected to the vehicle, and John Gault Trucking was in the process of performing ECM modifications.

Violations

14. Based on the information described above, EPA finds that John Gault Trucking knowingly removed and/or rendered inoperative devices or elements of design installed in or on HDDEs that were installed by the original equipment manufacturer in order to comply with CAA emissions standards. Specifically, John Gault Trucking removed and/or rendered inoperative DOCs, DPFs, EGRs, and/or SCRs installed on HDDEs used on public roads. Therefore, John Gault Trucking is in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A). Attachment A to this NOV specifically identifies these alleged violations.
15. Based on the information described above, EPA finds that John Gault Trucking sold, offered for sale, and/or installed software and hardware used on HDDEs driven on public roads. A principal effect of these products was to bypass, defeat, or render inoperative elements of the HDDEs design that control emissions of regulated air pollutants. John Gault Trucking knew or should have known that the work performed on these HDDEs and parts or components were offered for sale or installed for such use or put to such use. Therefore, John Gault Trucking is in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). Attachment A to this NOV specifically identifies these alleged violations.
16. Additionally, John Gault may have rendered inoperative the original engine manufacturers' software (insofar as it controlled the fueling strategy and other elements of design) and replaced it with software that, among other things, alters fueling strategy. The software increased engine power and fuel economy. As stated above, fuel injection timing and hardware, including EGRs and exhaust after-treatment devices, are devices and elements of design that HDDE manufacturers employ to meet emission standards, and which they must describe in detail in their applications to EPA for certificates of conformity. While this element of the work conducted by John Gault Trucking is still under review, knowingly performing or offering for sale such work to render inoperative the original engine manufacturers' software (insofar as it controlled the fueling strategy and other elements of design) and replacing it with software that, among other things, alters fueling strategy is in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

Environmental Impact of Violations

17. These violations may result in excess emissions of PM, NO_x, hydrocarbons, and other air pollutants. PM, especially fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Additionally, current scientific evidence links short-term NO_x exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma.

Enforcement Authority

18. EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Any person who violates Section 203(a)(3)(A) and (a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (a)(3)(B), is subject to an injunction under Section 204 of the CAA, 42 U.S.C. § 7523, and a civil penalty of up to \$4,527 for each violation under Section 205(a) of the CAA, 42 U.S.C. § 7524(a); and 40 C.F.R. § 19.4.

Date

6/30/17

Edward Nam

Director

Air and Radiation Division

Attachment A

Work Order Number	Date	Make	Model	Engine	Part/Work Description	Effect on Emission Control Device (ECD)
001001	6/24/2014				EGR Removal	Remove ECD
000245	1/22/2016	Freightliner	Columbia	Detroit Diesel S60 14L	Turbo Installation, EGR Removal, ECM Tuning	Remove ECD

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills -

<http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 601 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, regulatory, and outreach. The RSBL is the regional voice for EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

Portal helps users locate tribal-related information within EPA and other federal agencies.

Small Business Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

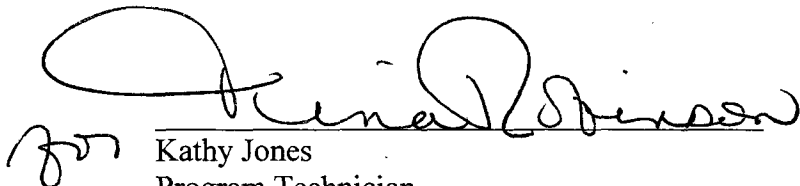
EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

CERTIFICATE OF MAILING

I certify that I sent a Notice of Violation, No. EPA-5-17-IL-08, by Certified Mail, Return Receipt Requested, to:

Wesley D. Litsey, President
John Gault Trucking, LLC.
11424 U.S. Hwy 20
Garden Prairie, IL 61038

On the 3rd day of July 2017.


for Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 2647 0322